CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	✓ Force	☐ Discourt.	☐ U.S.
Joshua Richardson		Squad #8	201801661	☐ Abuse	O.L.	✓ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Saturday, 06/25/2016 4:30 PM	Lake Avenue and Wenlock		lock Street	121	12/25/2017	12/25/2017
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Tim	Date/Time Received at CCRB	
Wed, 02/28/2018 6:23 PM		CCRB On-line website Wed, 02/28/2018 6:23 P		28/2018 6:23 PM	[
Complainant/Victim	Type	Home Addre	SS			
Subject Officer(s)	Shield	TaxID	Command			
1. POM Omar Elsayed	06763	950376	121 PCT			
2. POM Michael Venditti	18781	952318	121 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. SGT Felix Concepcion	00742	924845	INT CIS			
Officer(s)	Allegatio)n		Inv	estigator Recon	nmendation
A.POM Michael Venditti	Force: Police Officer Michael Venditti used physical force against § 87(2)(b)					
B.POM Omar Elsayed	Force: Police Officer Omar Elsayed used physical force against § 87(2)(b)					
C.POM Michael Venditti	Force: Police Officer Michael Venditti struck (5) with a blunt instrument.					

Case Summary

On February 28, 2018, \$87(2)(b) filed this complaint with the CCRB via its online website, almost two years after the incident happened.

On January 25, 2016, at approximately 4:30pm, after leading PO Omar Elsayed, PO Michael Venditti, and Sgt. Felix Concepcion, all of the 121st Precinct, on a vehicle pursuit for several blocks, street, in Staten Island. When street into a parked vehicle near the intersection of Lake Avenue and Wenlock Street, in Staten Island. When street into exited his vehicle and ran up Wenlock Street, he was allegedly pulled down to the ground by PO Venditti (Allegation A; Force, street, leading PO Omar Elsayed, PO Michael blocks, street, on a vehicle pursuit for several blocks, street, in Staten Island. When street his vehicle and ran up Wenlock Street, he was allegedly pulled down to the ground by PO Venditti (Allegation A; Force, street, str

There is no video evidence.

Findings and Recommendations

Allegation A: Force: Police Officer Michael Venditti used physical force against [357(2)[5]] Allegation B: Force: Police Officer Omar Elsayed used physical force against \$357(2)(5) Allegation C: Force: Police Officer Michael Venditti struck §87(2)(b) with a blunt instrument. It is undisputed that \$87(2)(b) led PO Venditti, PO Elsayed, and Sgt. Concepcion on a vehicle pursuit in Staten Island on June 25, 2016. It is also undisputed that this vehicle pursuit resulted in crashing into a parked vehicle, and then being arrested. What remains in dispute is whether PO Venditti pulled \$37(2)(b) to the ground and hit him in the face with a black object, and whether PO Elsayed pressed his knee on \$87(2)(b) face and punched him several times to his left rib area during § 87(2)(b) apprehension. testified that on June 25, 2016, he was alone, driving a white Dodge Charger, along Union Avenue towards Richmond Terrance, in Staten Island. §87(2)(b) knowledge nothing was wrong with the vehicle, everything was working fine and up to date. stated he did not commit any traffic infractions at this time. Upon approach of a stop sign on Union Avenue and Richmond Terrace, §87(2)(b) observed a grey Chevy Impala driving down on Richmond Terrace, past Union Avenue, and then pull over. 887(2)(5) made a right onto Richmond Terrace, and drove past this vehicle. § 37(2)(b) observed the vehicle pull out and put on police lights but no sirens. §87(2)(b) refused to pull over because in a prior interaction he had with the police, he felt harassed by them, so he kept driving down Richmond Terrace, \$37(2)(5) added there was a fair amount of traffic on the streets during this time. On Richmond Terrace between Sharpe Avenue and Faber Street, \$37(2)(5) crossed over the double yellow traffic lines, into oncoming traffic in order to drive around a vehicle. When did this, he hit the driver side window of that vehicle. After making a right onto Faber Street, and then several other turns onto various blocks, \$87(2)(5) made a left off of Lake

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several traffic infractions, including running red lights and stop signs, and speeding in that he was traveling approximately 30-35 mph. [87(2)[6] stated the vehicle pursuit lasted approximately seven minutes, and he observed the police vehicle behind him during this vehicle pursuit. After \$37(2)(b) struck the parked vehicle, his air bag deployed but, he did not recall where it hit him, and stated he knows he was not injured due to the air bay deploying. \$37(2)(b) his vehicle by climbing out of the driver side window because the vehicle's driver side door was too damaged to open. §87(2)(6) then ran past the intersection of Lake Avenue and Wenlock Street, further up along Wenlock Street. Once in the middle of that block, \$87(2)(b) Venditti, grab his shirt collar from the back, and pull him to the ground, causing \$37(2)(5) back to make contact with the ground first. Then PO Elsayed arrived immediately after and put his knee onto the left side of §87(2)(b) s face pressing the right side of his face against the concrete ground. \$27(2)(b) stated he obtained scratches to the right side of his face because of this. Simultaneously, PO Elsayed punched \$87(2)(6) to his left rib area several times. These two officers grabbed §87(2)(b) arms and were trying to place them behind his back while stating things to the effect of "Stop resisting arrest", and "Put your hands behind your back." didn't say anything to the officers during this time but kept pulling his arms away. PO Venditti then hit \$87(2)(b) with a black object to the left eyebrow area which caused \$ to become dizzy and bleed. §87(2)(6) was then handcuffed, lifted up by under the shoulders area, and then walked to an ambulance which was back at the intersection of Lake Avenue and Wenlock Street. § 87(2)(6) stated that he realized during this time his front right tooth was broken, in that half if it was gone, and also a right rear molar tooth was cracked on the side which caused a filling he had to come out. [87(2)(b)] did not know what caused his teeth to break. §87(2)(b) stated all his teeth were intact before this interaction with the police. was put inside the ambulance and was transported to §87(2)(b) , with PO Venditti accompanying him. §87(2)(b) stated because of the hit with the black object to his left eyebrow, he received stitches. §87(2)(b) also received bandages to the right side of his face, since he suffered many scratches to it from having it pressed against the spent the night at the hospital, and on the morning of June 26, 2016, he was transferred to the 120th Pct. by an officer, he did not recognize. (Board Review 02) On March 22, 2018, the investigation received \$87(2)(b) arrest photograph in regards to this incident. In the photograph, it does show a bruise to the right forehead area of \$87(2)(b) face and bandages to the left eyebrow area of his face. (Board Review 05) On May 11, 2018, the investigation received § 87(2)(b) ■ Medical Records in regards to his stay , in Staten Island on §87(2)(b). In these records, it was noted that \$87(2)(b) informed the staff that he was involved in a motor vehicle accident and that he was restrained by a seat belt, but the air bags deployed. He also stated that he exited his vehicle and ran away from the police but was ultimately tackled to the ground by the police. informed the staff that he did not remember what happened to him after this. only complained of face pain, and denied any headaches, or dizziness. The records note injuries were: lacerations to the right and left forehead area. The records revealed that after \$37(2)(b) was examined, the assigned doctor noted that \$37(2)(b) Page 3

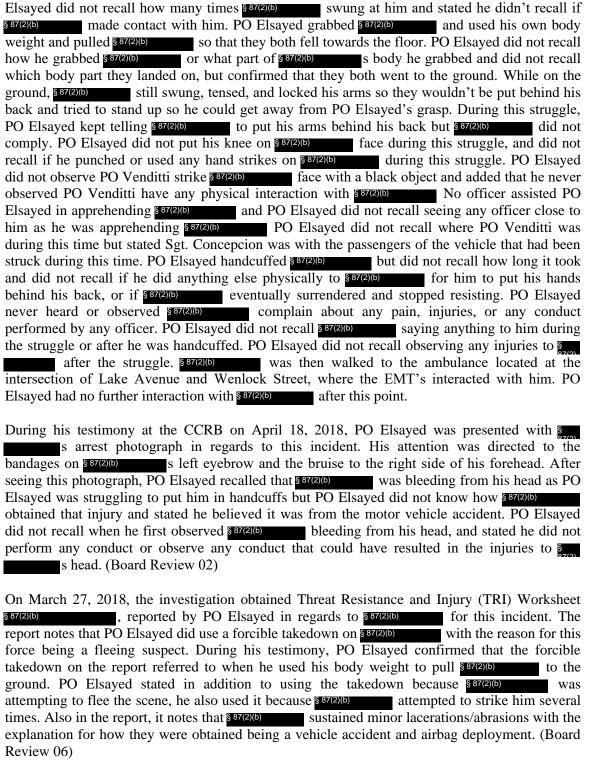
Avenue onto Wenlock Street, but drove up onto a sidewalk and struck a parked vehicle head on in a driveway on Wenlock Street. §87(2)(6) added that during this vehicle pursuit he did commit

injuries were consistent with a motor vehicle accident. §87(2)(b) was prescribed Ibuprofen. (Board Review 10)

PO Elsayed testified that on June 25, 2016, while driving on Richmond Terrace, in Staten Island, he observed the driver of a white Dodge Charger, identified via the investigation as \$37(2)(5) turn right onto Richmond Terrace without signaling, from a street that PO Elsayed could not recall. PO Elsayed activated the lights of his vehicle and drove behind \$87(2)(b) did not stop. PO Elsayed then activated the sirens to his vehicle, but § again did not stop, and instead kept driving. In an attempt to gain §87(2)(b) attention so he could pull over, PO Elsayed crossed over the double yellow lines into oncoming traffic and pulled up parallel with \$37(2)(0) vehicle. PO Elsayed did not recall if he tried to speak or made any motions to \$87(2)(b) at this time but stated \$87(2)(b) still did not pull over. When PO Elsayed went directly behind §87(2)(b) vehicle again, § 87(2)(b) and drove over the double yellow pavement markings into oncoming traffic, and squeezed inbetween two vehicles: one traveling eastbound and one traveling westbound. While doing this, sideswiped these vehicles, in that \$87(2)(b) vehicle rubbed against the sides of the other vehicles. PO Elsayed observed \$87(2)(b) do this to a number of vehicles but could not recall how many. At some point, \$87(2)(b) made a right turn off of Richmond Terrace, onto a street that PO Elsayed did not recall. PO Elsayed lost sight of \$87(2)(6) vehicle due to continuing to make turns. However, civilians waved to the officers and pointed in the direction of \$87(2)(b) vehicle, helping the officers find \$87(2)(b) again. PO Elsayed did not know how long he lost sight of \$87(2)(b) for and did not recall how many times he during this vehicle pursuit. PO Elsayed noted that he observed commit many traffic infractions during the vehicle pursuit including: crossing over the double yellow lines, driving into oncoming traffic, leaving the scene of an accident, speeding, and not stopping for stop signs.

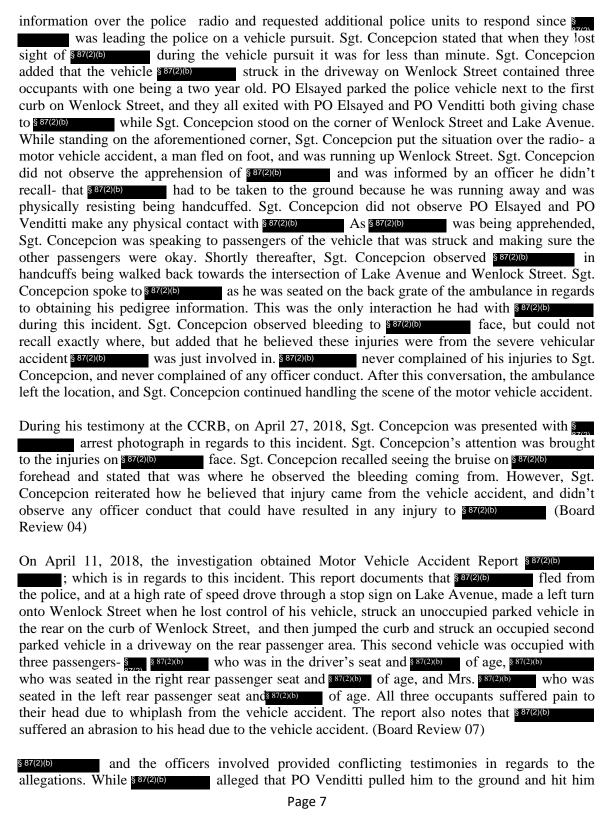
While driving on Lake Avenue above the legal limit of 25mph, \$87(2)(5) drove through another stop sign and then turned left; however \$87(2)(b) lost control of the vehicle, in that, the vehicle slid and drifted, and then struck a vehicle parked at the first curb of Wenlock Street, and then struck a second vehicle in the first driveway of Wenlock Street. This second vehicle had three passengers in it-a two year old in the rear passenger seat, identified via the investigation as Giuliana Fornarelli, an adult in the driver seat, identified via the investigation as Antonio Fornarelli, and another adult in the front passenger seat, identified via the investigation as Stephanie Fornarelli. PO Elsayed observed \$37(2)(b) s vehicle was severely damaged, in that, the whole front was smashed in. §87(2)(b) jumped out of the driver side window, and then began to run the opposite way up Wenlock Street. PO Elsayed stated there no were no other police vehicles on scene at this point. PO Elsayed and PO Venditti gave chase to [807(2)(b)] however PO Venditti fell near the scene of the motor vehicle accident for a reason unbeknownst to PO Elsayed. PO Elsayed did not know where Sgt. Concepcion was at this point. After a short chase, PO Elsayed caught up to §87(2)(b) as § 87(2)(b) was halfway over a grassy fence behind a house on Wenlock Street. PO Elsayed grabbed \$87(2)(b) by the torso and under the arm area and successfully pulled \$87(2)(5) off of the fence. PO Elsayed did not recall seeing any scratches or bruises to \$87(2)(b) s body at this point and was not able to observe anything s condition at this point. § 87(2)(b) pushed PO Elsayed away and closed his fists and tried to strike PO Elsayed, in that, he swung his closed fists towards PO Elsayed. PO

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PO Venditti's testimony was consistent with that of PO Elsayed's with the following exceptions:
PO Venditti testified that \$87(2)(5) only struck one vehicle on Wenlock Street- a parked
vehicle in a driveway with an infant in a car seat inside of it. PO Venditti fell into a flower bed
once he exited the police vehicle to try and pursue \$87(2)(b) and explained he fell because
there were a bunch of pieces of metal surrounding the flower bed that he did not realize were
there. PO Venditti stood up quickly and continued to run down the block in the direction
ran. PO Venditti stated at this point other officers were starting to arrive on scene, but he
did not recall who or how many but stated there were a couple police vehicles. As he was
running, he observed PO Elsayed catch up to §87(2)(b) and then grab him from behind and
then observed them both fall to the floor. PO Venditti did not recall what area of \$87(2)(b)
body PO Elsayed grabbed, and was not able to describe why they fell further; stating they could
have possibly lost their balance and fell. PO Venditti did not recall observing PO Elsayed pull
to the ground, and PO Elsayed never informed PO Venditti that he did that. PO
Venditti observed §87(2)(b) on the ground physically resist being put in handcuffs by flailing
his arms and screaming. PO Venditti observed other officers approaching the area where PO
Elsayed and §87(2)(b) were, so at that point he turned back around and focused his attention
on the vehicle that was struck by \$87(2)(b) PO Venditti did not observe much of the
handcuffing process of §87(2)(b) because he stated during that time his attention was on the
vehicular accident, checking to see if everything was okay. PO Venditti was not involved in the
handcuffing of \$87(2)(b) and PO Elsayed never informed PO Venditti how \$87(2)(b) was
handcuffed or how long it took for him to be handcuffed. PO Venditti never made any physical
contact with [887(2)(b)] and added that he only observed PO Elsayed make physical contact
with §87(2)(b) PO Venditti never pulled §87(2)(b) to the ground and never hit §37(2)
in his face with a black object. PO Venditti did not observe PO Elsayed put his knee on
face or any part of \$87(2)(b) s body, and PO Elsayed never informed PO
Venditti that he did. PO Venditti did not observe PO Elsayed punch \$87(2)(6) and PO
Elsayed never informed him of such. PO Venditti accompanied \$87(2)(b) in the ambulance to
, and during this time PO Venditti observed
lacerations to \$87(2)(b) but did not know how he obtained them and did not recall where these
lacerations were. PO Venditti guarded \$87(2)(b) while inside the hospital, but had no
interaction with him. PO Venditti did not recall if he stood with \$87(2)(b) the entire time \$7(2)(b)
was in the hospital or if at some point he was relieved of his duty.
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During his testimony at the CCRB on April 24, 2018, PO Venditti was presented with the arrest
photograph of \$87(2)(b) in regards to this incident. PO Venditti's attention was directed to the injuries on \$87(2)(b) food PO Venditti stated he know \$87(2)(b) had become injuries.
lace. Po venditti stated ne knew sortexo nad facerations but
reiterated that he did not recall exactly where they were or how \$87(2)(b) obtained them. Po Venditti did not do anything
to \$87(2)(6) that could have resulted in the injuries depicted in the arrest photograph, nor did
he observe PO Elsayed do anything that could have resulted in those injuries. (Board Review 03)
the observe FO Elsayed do anything that could have resulted in those injuries. (Board Review 03)
Sgt. Concepcion's testimony was consistent with PO Elsayed's and PO Venditti's testimonies
with the following exceptions: When he observed \$87(2)(b) cross over the double yellow lines
into oncoming traffic and sideswipe a vehicle, Sgt. Concepcion put [887(2)(b)] vehicle
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with a black object, PO Venditti testified that he was not involved in the apprehension of and made no physical contact with PO Elsayed corroborated this by testifying that he was the only officer involved in the apprehension of Regize While alleged that PO Elsayed pressed his knee on his face, PO Elsayed denied this allegation.
Lastly, while strice and the PO Elsayed punched him several times, PO Elsayed didn't recall using any hand strikes during the apprehension of strice. Sgt. Concepcion was not in a position to observe the apprehension of strice as he was focused on the motor vehicle accident and the civilian occupants.
§ 87(2)(g)
'Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.' <i>Patrol Guide Procedure 221-01</i> (Board Review 11)
§ 87(2)(g)

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Civilian and Officer CCRB Histories

•	§ 87(2)(b)	

- PO Elsayed has been a member of service for six years and has been a subject in 16 cases and 35 allegations, of which 4 were substantiated:
 - 201401094 involved substantiated allegations of a discourtesy-word, and a frisk against PO Elsayed. The Board recommended Charges and the NYPD imposed a forfeiture of two vacation days.
 - 201403333 involved a substantiated allegation of a vehicle search against PO Elsayed. The Board Recommended instructions and the NYPD imposed instructions and formalized training.
 - 201410712 involved a substantiated allegation of an entry into a residence against PO Elsayed. The Board Recommended Command Discipline A, and the NYPD imposed Command Discipline A.
- PO Venditti has been a member of service for six years and has been a subject in 4 cases and 8 allegations, none of which were substantiated. §87(2)(9)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On May 17, 2018, a request was made determine if a Notice of Claim was filed in regards to this incident. Confirmation from the Office of the New York City Comptroller will be added to the case file upon receipt.

• § 87(2)(b), § 8	87(2)(b), § 87(2)(c) (impair contract awards or CBAs)						
Squad No.:							
Investigator: _							
	Signature	Print Title & Name	Date				

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Squad Leader:			
	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date

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